

20 DRAFTING

DEPARTMENT OF CONSUMER AFFAIRS

CHAPTER 28

Statutory Authority: 1976 Code Sections 37-7-101 *et seq.*
Particularly 37-7-121 and 37-7-112

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes a new regulation that address consumer credit counseling. Interested persons should submit their views in writing to Danny Collins, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, South Carolina 29250-5757 by September 1, 2005.

Synopsis:

The General Assembly passed legislation in 2005 requiring the licensing of companies and their counselors offering consumer credit counseling. These companies and their counselors offer credit counseling and education and debt management plans to consumers who may be in financial difficulty. The proposed regulation will address the administration of the licensing process, including setting the fees that may be charged to consumers.

Legislative review of this proposal will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

Notice of Drafting:

The Department is proposing to amend R.61-62, *Air Pollution Control Regulations and Standards* and the State Implementation Plan (SIP). Interested persons are invited to present their views in writing to L. Nelson Roberts, Jr., Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by August 22, 2005, the close of the drafting comment period.

Synopsis:

On March 10, 2005, and March 15, 2005, the United States Environmental Protection Agency (EPA) finalized two rules known as the “Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule),” (also referred to as CAIR) and the “Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units,” (also referred to as CAMR), respectively.

CAIR was published in the Federal Register on May 12, 2005 [70 FR 25162]. This rule affects 28 states and the District of Columbia. In CAIR, the EPA found that South Carolina is one of the 28 states that contributes significantly to nonattainment of the National Ambient Air Quality Standards (NAAQS) for fine particles (PM_{2.5}) and/or 8-hour ozone in downwind States. The EPA is requiring these states to revise their SIPs to reduce emissions of sulfur dioxide (SO₂) and/or nitrogen oxides (NO_x). Sulfur dioxide is a precursor to PM_{2.5} formation, and NO_x is a precursor to both PM_{2.5} and ozone formation. The EPA has determined that electric generating units (EGUs) in South Carolina contribute to nonattainment of PM_{2.5} and 8-hour ozone in downwind states.

CAMR was published in the Federal Register on May 18, 2005 [70 FR 28606]. This rule establishes standards of performance for mercury (Hg) for new and existing coal-fired electric utility steam generating units, as defined in Clean Air Act (CAA) section 111(d). This amendment to the CAA establishes a mechanism by

which Hg emissions from new and existing coal-fired Utility Units are capped at specified, nation-wide levels. States must adopt standards of performance for Hg emissions reductions by submitting an implementation plan, referred to as an “111(d) Plan” which requires a State rulemaking action followed by submittal to the EPA for review and approval.

EPA coordinated the concurrent release of CAMR with CAIR because a “co-benefit” of implementing the mechanisms for controlling SO₂ and NO_x emissions as required by CAIR is the reduction of Hg emissions. Coordinating the development of CAMR with the CAIR rule allows states to take advantage of the Hg emissions reductions that can be achieved by the air pollution controls designed and installed to reduce SO₂ and NO_x.

The EPA has established a schedule for states to submit their SIP and 111(d) Plan. South Carolina must submit its SIP under CAIR to EPA by September 11, 2006, and the 111(d) Plan under CAMR to EPA by November 17, 2006.

The Department proposes to amend Regulations 61-62, *Air Pollution Control Regulations and Standards* and the SIP to address the requirements of CAIR and CAMR.

The proposed amendments will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTERS 19, 30, 61, 72, 121

Statutory Authority: S.C Code Ann. § 1-23-600, §1-23-610.

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend a number of its regulations to reflect procedural changes in the Administrative Procedures Act and the Rules of Procedure for the Administrative Law Court. Interested persons may submit comments to Carlisle Roberts, Jr., Office of General Counsel, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on August 22, 2005, the close of the drafting comment period.

Synopsis:

Act 202 of 2004 amended S.C. Code Ann. Section 1-23-600(C) (Supp. 2004) so as to provide, “All requests for a hearing before the Administrative Law Court must be filed in accordance with the court’s rules of procedure....” Rule 11 of the Rules of Procedure for the Administrative Law Court (ALC Rules), effective May 1, 2005, provides that a request for a contested case hearing must be filed with the clerk of the ALC within 30 days after actual or constructive notice of the agency decision, unless another time is provided by statute. The previous practice provided in DHEC regulations was to file appeals with the clerk of the DHEC Board within 15 days of actual or constructive notice of the decision.

Numerous DHEC regulations contain administrative appeal provisions that reflect the former process, which is now superceded by the ALC Rules. DHEC proposes to amend all of its regulations that contain outdated appeal provisions in a single amendment process. The amendments will update appeal procedures in DHEC regulations and conform them to current procedures in accordance with the Administrative Procedures Act and the Rules of Procedure for the Administrative Law Court.